

# EXHIBIT H

**COPY**

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
EDMUND BRYAN,

Plaintiff,

-against-

No. 07 Civ. 7300 (SHS

ECF Case

MEMORIAL SLOAN-KETTERING CANCER  
CENTER,

Defendant.

-----X

April 29, 2008  
10:10 A.M.

Deposition of Defendant, by

RUPERT GILLETTE, taken by Plaintiff, pursuant  
to Notice, at the offices of The Scott Firm,  
55 Washington Street, Suite 705, Brooklyn, New  
York 11201, before Charisse Romeo, a Shorthand  
Reporter and Notary Public within and for the  
State of New York.



ARTA PASCULLO, President

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2 there were several tasks that are done in the  
3 department, the department itself has like  
4 several areas.

5 Decontam area, you have the prep  
6 and pack area, you have the steam, you have  
7 the custom ultrasonic, you have the case room.  
8 There are certain tasks to be done in each of  
9 those areas and it is my responsibility to  
10 make sure they are done each night --

11 Q. Okay.

12 A. -- by the staff that are working  
13 in those areas.

14 Q. And if you could just briefly go  
15 through those, I believe you named five  
16 different areas, or was it six?

17 I'm thinking you said five, five  
18 or six areas you just ran through,  
19 specifically, what happens in each of those?

20 A. The decontam area, we receive  
21 carts from the OR with soiled trays, it would  
22 be bloody trays with blood, you know.

23 Q. All right.

24 A. We are to wash those trays,  
25 process them, process meaning we send them to

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2 a tunnel washer. There are other items that  
3 are in the decontam area that we are to wash,  
4 sometimes we get pumps, patient pumps, IV  
5 pumps, commodes, various other items, but the  
6 decontam area is basically to clean.

7 Q. Okay.

8 A. And to process, meaning send  
9 through the tunnel washes. Then you come to  
10 the prep and pack area where the tray assembly  
11 is done by the staff.

12 Q. Okay.

13 A. Meaning all the trays that come  
14 from the decontam area, they come into the  
15 prep and pack area and we assemble the trays.  
16 Pack them up for sterilization. We put them  
17 in containers and they are packed and ready  
18 for sterilization.

19 Then you go to the sterilization  
20 area where that staff would take all the  
21 assembled trays that are in the containers,  
22 place them on a cart and process them in the  
23 steam sterilizer.

24 Then you go from the steam  
25 sterilization area, once the trays -- all the

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2 items that are sterilized, that are processed,  
3 they are removed, cooled off and then they are  
4 taken to the case room area where they are  
5 stored.

6 Also, in addition to the case  
7 room area, the staff that works in there, they  
8 need to complete the cases that the OR would  
9 be using the following day for operations.  
10 They need to complete those carts. By that, I  
11 mean, there are missing items on each case and  
12 we have to get the missing item, put them on a  
13 cart and send the cart up to the OR.

14 Q. All right.

15 A. We also have the custom  
16 ultrasonic area and that area, we receive  
17 flexible scopes also from the decontam area  
18 and we are to process the flexible scopes, and  
19 in the custom ultrasonic machine, prepare them  
20 and have them ready for distribution to the  
21 various areas of the hospital.

22 Q. All right. As a supervisor, how  
23 many persons work on your team?

24 A. I believe it's ten.

25 Q. Okay. And their job titles would

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2 be what, their varied job titles would be  
3 what?

4 A. I have one lead technician and  
5 the rest of all the staff would be  
6 technicians, their title would be.

7 Q. Do you know what a CPD Tech I is?

8 A. No.

9 Q. No?

10 A. No.

11 Q. CPD Tech II?

12 A. No.

13 Q. Equipment specialist?

14 A. We did have that position at one  
15 point. I just spoke to the director a couple  
16 of days ago and I believe he thinks it is a  
17 position that is going to be eliminated.

18 Q. So, as far as you are aware,  
19 other than the distinction between a lead tech  
20 and a tech, there is no further distinction  
21 between technicians themselves, if you are a  
22 tech, you are a tech?

23 A. They are all the same.

24 Q. Okay. As far as job  
25 responsibilities, is the hiring of lead tech

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2 or technicians, does that come under your job  
3 description?

4 A. No.

5 Q. Training, the training of either  
6 lead tech or technicians, does that in any way  
7 come under your job description?

8 A. Could you repeat that?

9 Q. The training of either lead tech  
10 or technicians, does that come under your job  
11 description?

12 A. Yes.

13 Q. If you could just describe in  
14 which way?

15 A. Well, in terms of training, it is  
16 not totally locked into me, the supervisor, to  
17 completely train the staff, even though when  
18 we get new staff, I always make sure that I do  
19 have an input.

20 Generally, what I do with the  
21 staff is I would take them around the  
22 department, I would show them the final  
23 details of what we are doing. I am very exact  
24 in what I show them, but after I go through  
25 the process with them, I will usually ask

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2 A. I don't have a supervisor. I do  
3 have a director and his name is Melvin  
4 McClean.

5 Q. How long has Mr. McClean been  
6 your director?

7 A. I guess about a year.

8 Q. And prior to Mr. McClean?

9 A. I believe it was Carol Cass,  
10 C-A-S-S, I'm not sure about that, but she  
11 resigned and she was given another position  
12 and then Melvin McClean was her replacement  
13 and that took place about a year ago.

14 Q. Who is John Meggs?

15 A. John Meggs was the manager, used  
16 to be. He is no longer with us.

17 Q. In the hospital structure,  
18 operational structure, did you report to John  
19 Meggs before he left the hospital?

20 A. Yes.

21 Q. And then, at this present time,  
22 there is no one occupying the position that  
23 Mr. Meggs previously occupied?

24 A. No.

25 Q. Okay. Do you know why that is?



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2 do you also -- is it also one of your  
3 responsibilities to complete evaluations of  
4 the persons under your supervision?

5 A. Yes.

6 Q. And how frequently do you conduct  
7 these evaluations?

8 A. Once a year.

9 Q. Do you ever have occasion to do  
10 quarterly evaluations?

11 A. Yes.

12 Q. When would those occasions arise?

13 A. Every three months.

14 Q. What would give rise to  
15 conducting quarterly evaluations as opposed to  
16 yearly?

17 A. There is no rise. It is standard  
18 procedure that you do a quarterly evaluation  
19 to let the employee staff know where they are  
20 presently in the department.

21 And the reason for that is when  
22 the final evaluation is done, it is not a  
23 surprise to them what the outcome of their  
24 evaluation would be. Meaning, during the  
25 course of the year if every three months you

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2 are barred from using those words, so the  
3 night shift is basically it is a shift where  
4 there are no specific perimeters that the  
5 staff get into to expose themselves to any  
6 form of discrimination by the examples I just  
7 gave you. We are not permitted to use those  
8 words.

9 In addition to that, we are only  
10 allowed to listen to one radio station.  
11 Generally, it was Light FM. We've switched  
12 that to Fresh 102.7, which is maybe a little  
13 upgrade from Light FM where the music is a  
14 little more later date and that is the only  
15 station we are permitted to listen to.

16 We are not permitted to listen to  
17 Z100 or 107 or any of the other stations that  
18 would play rap music. That is the only  
19 station we are permitted to listen to.

20 Within that guideline of a radio  
21 station, the words we are permitted to use as  
22 far as discrimination goes, it limits us to  
23 being able to discriminate from any  
24 individual, from one to the next.

25 Q. As a supervisor, have you ever

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2 Q. There were never any jokes about  
3 people's national origin, places of origin?

4 A. No. No. We spoke about a lot of  
5 things. I mean, we cursed, but I do not  
6 remember anyone getting -- because the reason  
7 for that being, the staff at the time, and it  
8 still is, it is quite diverse, and from what I  
9 remember, no one would say anything about  
10 anyone's national origin and I believe  
11 specifically because what was one individual  
12 going to say when a lot of the staff were from  
13 different places.

14 From what I remember, we got in a  
15 lot of different discussions, but national  
16 origin was never one, and this, I'm talking  
17 about way back, I'm not talking about now, I'm  
18 talking about back in the days when we cursed  
19 and we used the N word and national origin was  
20 never a discussion.

21 Q. And this was five years ago,  
22 approximately?

23 A. Approximately.

24 Q. And at the time of this meeting,  
25 were you a supervisor for the night shift?

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2 Q. Why did the two of you stop  
3 speaking?

4 A. Well, over the years, I've  
5 observed Edmund to be someone who is, I would  
6 say, very controlling. Sometimes in the  
7 discussion that I mentioned that we had in the  
8 department, sometimes other staff would say  
9 like to him, Edmund Bryan, like why don't you  
10 let me speak.

11 He had a way about him that when  
12 he started to speak, he would overpower the  
13 person and not, you know, not have a  
14 conversation where I speak, you speak, he  
15 would be the only one speaking, which to some  
16 degree, it was like it is no big deal. People  
17 have different ways of being in the world. It  
18 never bothered me. But that was a little  
19 something that I had kept in mind.

20 And then the night -- it happened  
21 two nights where one night at the time, I was  
22 in charge of the night shift and I delegated  
23 where each staff would be, what their work  
24 would be.

25 I remember one night, I was

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2 he indicated like, yes, and in the e-mail, I  
3 am not getting the point. It led me to the  
4 conclusion that from his standpoint, it was,  
5 and I, as the supervisor, I needed to stop it.

6 The same night, I read the e-mail  
7 in response to the one I sent where he had  
8 wrote in the e-mail like I don't get it, but I  
9 completed reading what he wanted done and I  
10 had a staff meeting.

11 Q. Okay.

12 A. In the staff meeting, I explained  
13 to everyone, whatever your culture is, that  
14 that person is only allowed to speak within  
15 the confines of your culture, which means if  
16 you are Spanish or Puerto Rican, you can't  
17 speak in Jamaican. If you are Jamaican, you  
18 can't speak Spanish. Just that everyone had  
19 to stay within the confines of their national  
20 origin or culture, so to speak.

21 The staff thought it was kind of  
22 strange, but anyway, that was the staff  
23 meeting that I had and I explained to everyone  
24 that this is what needs to be done and this  
25 was in response to what John had explained to

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2 me, had transpired between Efrain and Lennox  
3 and what he wanted done.

4 Q. Do you understand now why that  
5 could be viewed as discrimination in the  
6 workplace?

7 MS. KALE: Objection.

8 If you understand the question,  
9 you can answer.

10 A. My personal opinion?

11 Q. Yes.

12 A. I believe it depends on how the  
13 person choose to deliver it. In the situation  
14 between Efrain and Lennox, I believe the way  
15 it was done was not discriminatory. I know  
16 people can take the same words or approach and  
17 mean -- and put a different meaning behind it.

18 So to answer your question, it is  
19 not a point-blank answer, it is relative to  
20 how it is being used and the person's  
21 intentions behind it.

22 Q. Okay. So your same opinion holds  
23 with regards to the use of nigger, it depends  
24 on how the person using the word intends it to  
25 be used?

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2 important, then that is the weight it  
3 deserves. And in cases and situations like  
4 these, the appropriate weight as needed is  
5 what I put on it.

6 Q. And what was the appropriate  
7 weight that you placed on the issue of the use  
8 of vulgarity in the workplace?

9 A. Make sure it doesn't happen.

10 Q. How did you go about making sure  
11 it doesn't happen?

12 A. Staff meetings. I would have a  
13 staff meeting and I would explain to staff in  
14 like in the same instance where this incident  
15 happened with Efrain Perez and the first night  
16 I received the e-mail of the incident, I  
17 responded back to John Meggs. The following  
18 night he responded back to me and that same  
19 night, I had a staff meeting.

20 Q. Do you recall signing a document  
21 addressed to you by John Meggs in which you  
22 were told that you would be held accountable  
23 resulting in termination of employment should  
24 a staff member make allegations related to  
25 issues of anti-harassment or nondiscrimination

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2 A. You know he spoke with -- he did  
3 an Australian accent where I think there was  
4 this guy, the Australian outback, I think we  
5 are all familiar with.

6 Q. Crocodile Dundee?

7 A. Yes.

8 Q. Right.

9 A. And he did an accent and the  
10 accent, I thought, was pretty exact to the way  
11 the guy spoke. When he did that, I didn't  
12 find it offensive. Then he did an  
13 impersonation of Sean Connery, which I thought  
14 was really exact. When he did the  
15 impersonation of Sean Connery, I didn't think  
16 he was violating hospital policy to do an  
17 impersonation to Sean Connery.

18 I could have said, Efrain, you  
19 are in violation of Memorial Sloan-Kettering  
20 by impersonating Sean Connery, but I did not.  
21 I didn't think it was offensive and I didn't  
22 think, by me using my common sense to discern  
23 his approach, I didn't think he was trying to  
24 be. And at which point, I didn't make it my  
25 business to shut him down and to say this is



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2 not hospital policy, you cannot, in here on  
3 hospital property, do an impersonation of Sean  
4 Connery. I didn't. I didn't find it  
5 offensive. Still don't.

6 Q. So when you found out that he was  
7 doing impersonations of a Jamaican accent, was  
8 he doing an impersonation of Bob Marley or was  
9 it a generic Jamaican?

10 A. I never heard him do an  
11 impersonation of a Jamaican accent.

12 Q. Okay.

13 A. The way I got this information  
14 was from John Meggs.

15 Q. So at the point in time when you  
16 got that information, you did not interpret  
17 him doing an impersonation or attempting to do  
18 an impersonation of a Jamaican as being  
19 offensive?

20 A. No.

21 Q. And as we sit here today, do you  
22 feel that that is appropriate behavior for the  
23 workplace?

24 MS. KALE: Objection.

25 A. My opinion?